

# REGISTER

*South Dakota Legislative Research Council*



*Volume 32*

*Monday, 8:00 a.m., October 31, 2005*

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**NOTICES OF PROPOSED RULES:** (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

***Department of Transportation:*** (October 25, 2005) intends to amend speed zones on South Dakota Highway 50 through the city of Vermillion in Clay County and on U.S. Highway 16 through the city of Presho in Lyman County; adopt a rule to prohibit parking along State Trunk Highway 11 in Corson County during snow events; and amend rules to provide a new electronic bidding system to comport with modern business practices. The general authority for these rules, as cited by the department, is SDCL 31-5-10, 32-25-7, and 32-30-2.4.

A public hearing will be held in the commission room of the Becker-Hansen Building, 700 E. Broadway Avenue in Pierre, South Dakota, on November 17, 2005, at 9:05 a.m. CST. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of Transportation, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586. Material sent by mail must reach the department by November 16, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3265 at least 48 hours before the hearing.

***Department of Transportation:*** (October 25, 2005) intends to amend speed zones in Custer and Fall River Counties on U. S. Highway 18, U. S. Highway 385 and State Trunk Highway 79 from Nebraska to Hermosa to allow for a maximum of 70 miles per hour along rural,

divided segments of highway. The general authority for these rules, as cited by the department, is SDCL 32-25-7.

A public hearing will be held in the commission room of the Becker-Hansen Building, 700 E. Broadway Avenue in Pierre, South Dakota, on November 17, 2005, at 9:05 a.m. CST. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of Transportation, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586. Material sent by mail must reach the department by November 16, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3265 at least 48 hours before the hearing.

***Department of Education: Board of Education:*** (October 26, 2005) intends to amend rules that will change the current postsecondary institute funding distribution formula from one based primarily on completers, to one based on the number of Full Time Equivalent students (FTE); remove the requirement that individuals with lapsed certificates take and pass a Praxis II content test for every subject or area authorization for which they are reapplying in order to obtain a current certificate, require that authority to act applications be submitted online and to allow educators working under authorities to act to obtain certification or endorsement in the area for which the authority to act is being requested by taking and passing the appropriate Praxis II content test rather than completing the coursework, allow a teacher who obtains an advanced degree and/or National Board

Certification to receive a one-time, ten-year, renewed teaching certificate without having to fulfill the standard renewal requirement of an additional six hours of credit, and create administrative rules governing distance education programs throughout the state. The general authority for these rules, as cited by the board, is SDCL 13-1-12.1, 13-3-47, 13-33-22, 13-39-13, 13-39-19, 13-39-37, 13-39-38, and 13-42-3.

A public hearing will be held at the Ramkota River Center, 920 West Sioux, Pierre, South Dakota, on November 14, 2005, at 1:00 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Education, South Dakota Board of Education, 700 Governors Drive, Pierre, South Dakota 57501-2291. Written

comments must be received by November 14, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3426 at least 48 hours before the hearing.

### **FILINGS IN THE SECRETARY OF STATES OFFICE: None**

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

### **REMINDER OF HEARINGS SCHEDULED**

11-1-2005	Labor: Public Utilities Commission	Amend rules to set forth the requirements for filing an application for a permit to construct wind energy facilities and amend some requirements applying to the siting of energy conversion and transmission facilities; 32 SDR 55.
11-1-2005	Agriculture	Amend a rule to change the dates of the South Dakota State Fair; 32 SDR 57.
11-3-2005	Game, Fish and Parks	Amend the continuous length of time (15 days) a person or group may camp at a first come-first serve site at Lewis & Clark Recreation Area w/o permission; repeal portions of park entrance license exemptions at certain areas of the Lewis & Clark Recreation Area; establish the daily camping permit fee of \$7.62 at Rocky Point Recreation Area by designating it as a "modern campground fee" area; modify fees for canceling a campsite through the reservation center from \$10 to 1 night's camping fee, establish a \$15 fee for canceling a reservation for a camping cabin or rent-a-camper through the call center or upon arrival at the park, and modify the cancellation fee for French Creek Horse Camp from \$10 to 1 night's camping fee if cancellation is received 30 days or more in advance; modify the definition of "inland waters" to correct an error

		<p>and to exclude the "SD-Iowa", "SD-Minnesota" and "SD-Nebraska" boundary waters; prohibit release of non-native mollusks into waters of the state without authorization; prohibit statewide the taking/keeping daily of more than 1 walleye, sauger, or walleye-sauger (or combination) 20 inches or longer except in certain bodies of water (including Belle Fourche Reservoir; Diamond, Twin, and Beaver Lakes in Minnehaha County, and Reetz Lake; prohibit statewide the taking/keeping of any muskellunge less than 40 inches long; prohibit taking/keeping of largemouth bass from Sheridan Lake less than 15 inches long; repeal the catch and release requirement at Lake Haven Crossing Pond; permit seines/dip nets in taking smelt in the Missouri River (and impoundments) – 5 gallon daily limit; require catch and release of trout caught in Rapid Creek within the boundaries of Meadowbrook Gold Course; repeal the limits and size restrictions for northern pike specific to LaCreek National Wildlife Refuge; modify the walleye, sauger, and walleye-sauger (or combination) limits in Lake Oahe to 4 daily and 12 in possession and remove the 15 inch minimum size restriction; modify the walleye, sauger, and walleye-sauger (or combination) limits in Lake Sharpe, Lake Francis Case, and the Missouri River from Ft. Randall Dam to the SD/Nebraska state line to 4 daily and modify the maximum size restriction to no more than 1 walleye 20 inches or longer taken daily; establish the daily limit of 10 for bluegill, sunfish, crappie, and perch in Firesteel Creek from Lake Mitchell to the Loomis oil road; modify dates spearing of rough fish is permitted on certain inland waters 24 hours a day from June 1 through August 31 to May 1 through August 31; permit spearing rough fish in the SD/Nebraska boundary waters 24 hours a day from April 1 through August 31; permit spearing game fish from sunrise to sunset at Lakes Whitewood, Preston, Spirit, Albert, John, Mary, and Norden from December 1 through the end of February (unless the last day of February falls on a Saturday – the season extends through</p>
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		March 1); modify the opening date for spearing game fish from July 1 of each year to June 1 at: Lewis & Clark Lake from Gavins Point dam upstream to the Nebraska-South Dakota state line, Lake Francis Case from Fort Randall Dam upstream to the I-90 bridge, Lake Sharpe from the big Bend Dam upstream to US Highway 14 bridge at Pierre, and Lake Oahe from Oahe Dam upstream to the US Highway 212 bridge; prohibit taking bait from the Clubhouse/Fourmile Game Production Area from May 1 through July 31; and update reference to published material containing health inspection procedures from the "4 <sup>th</sup> edition, 1994" to the "(2004 Edition)"; 32 SDR 63.
11-14-2005	Education: Board of Education	Amend rules that will change the current postsecondary institute funding distribution formula from one based primarily on completers, to one based on the number of Full Time Equivalent students (FTE); remove the requirement that individuals with lapsed certificates take and pass a Praxis II content test for every subject or area authorization for which they are reapplying in order to obtain a current certificate, require that authority to act applications be submitted online and to allow educators working under authorities to act to obtain certification or endorsement in the area for which the authority to act is being requested by taking and passing the appropriate Praxis II content test rather than completing the coursework, allow a teacher who obtains an advanced degree and/or National Board Certification to receive a one-time, ten-year, renewed teaching certificate without having to fulfill the standard renewal requirement of an additional six hours of credit, and create administrative rules governing distance education programs throughout the state; 32 SDR 75.
11-16-2005	Attorney General: Law Enforcement Officers Standards and Training Commission	Amend a rule to clarify who is eligible for reciprocity as a law enforcement officer; 32 SDR 63.
11-16-2005	Secretary of State: Board of Elections	Amend rules to change the number of instructions to voters posters placed at each polling place; remove op-tech ballot instructions from the posters, from the ballot

		instructions, and from instructions on how to count imperfectly marked optical scan ballots; provide instructions for new voting machines; add new voting machines and name of new federal agency that certifies voting equipment to the distribution requirements; update absentee ballot application and add the authorization to use a computer absentee ballot log; 32 SDR 69.
11-17-2005	Transportation	Amend speed zones on South Dakota Highway 50 through the city of Vermillion in Clay County and on U.S. Highway 16 through the city of Presho in Lyman County; adopt a rule to prohibit parking along State Trunk Highway 11 in Corson County during snow events; and amend rules to provide a new electronic bidding system to comport with modern business practices; 32 SDR 75.
11-17-2005	Transportation	Amend speed zones in Custer and Fall River Counties on U. S. Highway 18, U. S. Highway 385 and State Trunk Highway 79 from Nebraska to Hermosa to allow for a maximum of 70 miles per hour along rural, divided segments of highway; 32 SDR 75.
11-18-2005	Revenue and Regulation: Appraisers	Amend rules to add definition for distance education; capitalize Appraisal Subcommittee; specify that completion of the Appraisal Foundation's 7-hour National Uniform Standards of Professional Appraisal Practice Update Course is required for continuing education; require appraisers to comply with administrative rule regarding competency; allow state-registered appraisers to have more than one supervisor; limit supervisors to only three trainees; require supervisors to be in good standing and not subject to disciplinary action by the department for the past two years; require state-registered appraisers to report name of supervisors; describe supervisors' responsibilities; national examination only valid for 24 months; no alternative to successful completion of the national examination; no longer extension given for sitting for the national examination; delete unnecessary upgrade language for state-registered appraiser; reduce experience requirement from 24 months to 12 months for state-licensed classification; delete no time

		<p>limit for obtaining experience; adopt acceptable experience effective January 1, 2008; require separate appraisal assignment logs for each supervisor; describe experience that may be claimed; set time limit for obtaining experience; describe requirements for experience verification; adopt education requirements effective January 1, 2008, for the registered, licensed and certified classifications; repeal credit allowed for challenge examination; prohibit substitution of education by experience; correct date in reference to the applicable edition of the uniform standards; change precertification to qualifying education; clarify education deferral timeframe; add additional description for acceptable continuing education courses; revise the continuing education course topics; allow field trips for continuing education hours; clarify requirements for qualifying education credit; allow continuing education credit for activities other than as a student; revise sources of education; remove individual types of courses and replace with general term for all courses that are acceptable without state review; establish requirements for acceptable distance education courses; and remove individual types of courses and replace with general term for all courses for approval; 32 SDR 57.</p>
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### Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, December 6, 2005, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2005 interim: January 9, 2006.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the Legislative Web site.